SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

Question No. 59

Senator Siewert asked the following question at the hearing on 14 February 2012:

For the financial years 2009-10 and 2010-11:

1. How much of the Director of Public Prosecutions financial resources (amount and percentage) was dedicated to tax fraud?
2. What are the financial savings to Government of this expenditure?
3. How many staff working on projects related to tax fraud?
4. How many convicted for tax fraud?
5. For the financial periods 2010-11 and 2011-12 and 31 July to 31 December 2011 please provide a breakdown of the sentencing outcomes of recipients convicted [for tax fraud offences] by the CDPP by type of sentence (eg. custodial sentence, good behaviour bond, community service order, etc). Please provide a breakdown of the sentencing outcomes by:
    i. Age
    ii. Gender
    iii. State and Territory, and
    iv. Indigenous/non-Indigenous background.

For all custodial sentences, detail the length of sentence and the value of the fraud involved.

The answers to the Honourable Senator's questions are as follows:

1. In 2009-2010, 2.4% of defendants dealt with before the courts were referred by the Australian Tax Office (ATO). In 2010-11, 2.2% of defendants dealt with before the courts were referred by the ATO. Detailed information about tax fraud prosecutions is at (4), (5) and (6) below. CDPP resource usage is at (3) below.
2. This is a matter for the Australian Taxation Office.
3. On 30 June 2010, 69 CDPP staff had open tax fraud files. On 30 June 2011, 60 CDPP staff had open tax fraud files.

4.

NUMBER OF 'TAX FRAUD' CONVICTIONS PROSECUTED BY THE CDPP, BY FINANCIAL YEAR

FINANCIAL YEAR	NUMBER OF TAX FRAUD CONVICTIONS
2009-10	150
2010-11	105
TOTAL	**255**

* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office or sourced from the Australian Taxation Office. As at 21.02.2012.

5(i). Age

TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND AGE*

AGE	HIGHEST PENALTY	2009-10	2010-11	2011-12 (First Half)	TOTAL
20 to 29 years		**10**	**3**	**2**	**15**
	Gaol	3	1	1	**5**
	Gaol (Fully Suspended)	2	1	0	**3**
	Fine	5	1	0	**6**
	Recognisance Order	0	0	1	**1**
30 to 39 years		**32**	**31**	**7**	**70**
	Gaol	9	16	5	**30**
	Gaol (Fully Suspended)	4	4	2	**10**
	Periodic Detention	0	1	0	**1**
	Fine	12	6	0	**18**
	Community Service Order, etc.	1	0	0	**1**
	Recognisance Order	6	4	0	**10**
40 to 49 years		**33**	**25**	**19**	**77**
	Gaol	11	6	10	**27**
	Gaol (Fully Suspended)	2	2	1	**5**
	Fine	15	9	4	**28**
	Community Service Order, etc.	0	2	0	**2**
	Recognisance Order	5	6	4	**15**
50 to 59 years		**37**	**26**	**10**	**73**
	Gaol	6	7	4	**17**
	Gaol (Fully Suspended)	2	6	0	**8**
	Periodic Detention	1	0	0	**1**
	Fine	20	7	3	**30**
	Community Service Order, etc.	2	0	0	**2**
	Recognisance Order	6	6	3	**15**
60 to 69 years		**18**	**12**	**10**	**40**
	Gaol	5	2	5	**12**
	Gaol (Fully Suspended)	0	3	1	**4**
	Fine	9	2	1	**12**
	Recognisance Order	4	5	3	**12**
70 years or over		**20**	**8**	**7**	**35**
	Gaol	4	2	1	**7**

	Gaol (Fully Suspended)	1	0	0	**1**
	Fine	13	3	4	**20**
	Recognisance Order	2	3	2	**7**
TOTAL		**150**	**105**	**55**	**310**

* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office or sourced from the Australian Taxation Office. 'Highest penalty' is calculated by taking the most severe penalty imposed on the defendant. For example, if a defendant received a fully suspended gaol sentence as well as a fine, only the fully suspended gaol sentence will be captured in this table. In this regard, the table is a count of defendants sentenced for tax fraud offences, not actual penalties imposed. As at 21.02.2012.

5(ii). Gender

TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND GENDER*

GENDER	HIGHEST PENALTY	2009-10	2010-11	2011-12 (First Half)	TOTAL
Female		**27**	**18**	**12**	**57**
	Gaol	9	8	6	**23**
	Gaol (Fully Suspended)	4	3	3	**10**
	Periodic Detention	0	1	0	**1**
	Fine	8	2	0	**10**
	Community Service Order, etc.	0	1	0	**1**
	Recognisance Order	6	3	3	**12**
Male		**110**	**80**	**39**	**229**
	Gaol	29	25	20	**74**
	Gaol (Fully Suspended)	7	13	1	**21**
	Periodic Detention	1	0	0	**1**
	Fine	54	23	9	**86**
	Community Service Order, etc.	3	1	0	**4**
	Recognisance Order	16	18	9	**43**
Company		**13**	**7**	**4**	**24**
	Gaol	0	1	0	**1**
	Fine	12	3	3	**18**
	Recognisance Order	1	3	1	**5**
TOTAL		**150**	**105**	**55**	**310**

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5(iii). State and Territory

TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND STATE*

STATE	HIGHEST PENALTY	2009-10	2010-11	2011-12 (First Half)	TOTAL
NSW		**57**	**42**	**23**	**122**
	Gaol	10	14	8	**32**
	Gaol (Fully Suspended)	3	4	1	**8**
	Periodic Detention	1	1	0	**2**
	Fine	29	12	6	**47**
	Community Service Order, etc.	2	0	0	**2**
	Recognisance Order	12	11	8	**31**
VIC		**12**	**16**	**5**	**33**
	Gaol	6	3	2	**11**
	Gaol (Fully Suspended)	2	5	1	**8**
	Fine	3	2	1	**6**
	Community Service Order, etc.	0	1	0	**1**
	Recognisance Order	1	5	1	**7**
QLD		**45**	**25**	**20**	**90**
	Gaol	14	9	14	37
	Gaol (Fully Suspended)	2	6	0	**8**
	Fine	19	4	2	**25**
	Community Service Order, etc.	1	1	0	**2**
	Recognisance Order	9	5	4	**18**
SA		**13**	**6**	**1**	**20**
	Gaol	3	3	0	**6**
	Gaol (Fully Suspended)	3	1	1	**5**
	Fine	6	0	0	**6**
	Recognisance Order	1	2	0	**3**
WA		**12**	**9**	**4**	**25**
	Gaol	3	4	1	**8**
	Gaol (Fully Suspended)	1	0	0	**1**
	Fine	8	5	3	**16**
TAS		**5**	**2**	**1**	**8**
	Gaol	2	0	1	**3**
	Fine	3	2	0	**5**
ACT		**6**	**5**	**1**	**12**
	Gaol	0	1	0	**1**
	Gaol (Fully Suspended)	0	0	1	**1**
	Fine	6	3	0	**9**
	Recognisance Order	0	1	0	**1**
TOTAL		**150**	**105**	**55**	**310**

* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office or sourced from the Australian Taxation Office. 'Highest penalty' is calculated by taking the most severe penalty imposed on the defendant. For example, if a defendant received a fully suspended gaol sentence as well as a fine, only the fully suspended gaol sentence will be captured in this table. In this regard, the table is a count of defendants sentenced for tax fraud offences, not actual penalties imposed. As at 21.02.2012.

5(iv). Indigenous/non-Indigenous background

TAX FRAUD CONVICTIONS, BY FINANCIAL YEAR MATTER FINALISED, BY HIGHEST PENALTY AND INDIGENOUS STATUS

INDIGENOUS STATUS	HIGHEST PENALTY	2009-10	2010-11	2011-12 First Half	TOTAL
INDIGENOUS		**2**	**0**	**0**	**2**
	Gaol	1	0	0	**1**
	Fine	1	0	0	**1**
NOT INDIGENOUS		**51**	**33**	**19**	**103**
	Gaol	22	16	15	**53**
	Gaol (Fully Suspended)	8	6	1	**15**
	Fine	16	4	1	**21**
	Community Service Order, etc.	0	1	0	**1**
	Recognisance Order	5	6	2	**13**
UNKNOWN		**97**	**72**	**36**	**205**
	Gaol	15	18	11	**44**
	Gaol (Fully Suspended)	3	10	3	**16**
	Periodic Detention	1	1	0	**2**
	Fine	57	24	11	**92**
	Community Service Order, etc.	**3**	**1**	**0**	**4**
	Recognisance Order	18	18	11	**47**
TOTAL		**150**	**105**	**55**	**310**

* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office or sourced from the Australian Taxation Office. 'Highest penalty' is calculated by taking the most severe penalty imposed on the defendant. For example, if a defendant received a fully suspended gaol sentence as well as a fine, only the fully suspended gaol sentence will be captured in this table. In this regard, the table is a count of defendants sentenced for tax fraud offences, not actual penalties imposed. As at 21.02.2012.

6(i). Length of sentence

TAX FRAUD CONVICTIONS RESULTING IN CUSTODIAL SENTENCE, BY FINANCIAL YEAR MATTER FINALISED AND HEAD SENTENCE*

Head sentence	2009-10	2010-11	2011-12 (First Half)	TOTAL
Less than 1 year	2	3	1	**6**
1 year	2	3	0	**5**
2 years	13	9	9	**31**
3 years	10	11	2	**23**
4 years	2	5	9	**16**
5 years	2	2	1	**5**
6 years	3	0	2	**5**
7 years	1	0	2	**3**
8 years	2	1	0	**3**
9 years	0	0	0	**0**
10 years	0	0	0	**0**
Over 10 years	1	0	0	**1**
TOTAL	**38**	**34**	**26**	**98**

* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office or sourced from the Australian Taxation Office. The 'head sentence' was calculated by rounding the maximum custodial term of imprisonment to the nearest whole year. As at 21.02.2012.

6(ii) Value of fraud involved

TAX FRAUD CONVICTIONS RESULTING IN CUSTODIAL SENTENCE, BY FINANCIAL YEAR MATTER FINALISED,
BY FRAUD AMOUNT AND HEAD SENTENCE*

Value of Fraud Proven	Head Sentence	2009-10	2010-11	2011-12 (First Half)	TOTAL
Less than $50,000		**4**	**2**	**0**	**6**
	Less than 1 year	0	1	0	**1**
	1 year	1	1	0	**2**
	2 years	3	0	0	**3**
Between $50,000 and $100,000		**6**	**5**	**6**	**17**
	Less than 1 year	0	0	1	**1**
	1 year	1	0	0	**1**
	2 years	3	2	5	**10**
	3 years	2	3	0	**5**
Between $100,000 and $250,000		**7**	**8**	**3**	**18**
	1 year	0	1	0	**1**
	2 years	2	1	2	**5**
	3 years	4	5	0	**9**
	4 years	1	1	1	**3**
Between $250,000 and $500,000		**3**	**3**	**4**	**10**
	2 years	1	2	0	**3**
	3 years	2	1	0	**3**
	4 years	0	0	4	**4**
Between $500,000 and $750,000		**0**	**2**	**1**	**3**
	4 years	0	2	0	**2**
	5 years	0	0	1	**1**
Between $750,000 and $1,000,000		**2**	**0**	**0**	**2**
	6 years	2	0	0	**2**
Between $1 and $5 million		**1**	**1**	**8**	**10**
	3 years	0	0	1	**1**
	4 years	0	1	3	**4**
	5 years	1	0	0	**1**
	6 years	0	0	2	**2**
	7 years	0	0	2	**2**
Between $5 and $10 million		**3**	**1**	**0**	**4**
	5 years	1	0	0	**1**
	8 years	1	1	0	**2**
	11 years	1	0	0	**1**

Over $10 million		**2**	**0**	**0**	**2**
	6 years	1	0	0	**1**
	7 years	1	0	0	**1**
NOT DEFINED		**10**	**12**	**4**	**26**
	Less than 1 year	2	2	0	**4**
	1 year	0	1	0	**1**
	2 years	4	4	2	**10**
	3 years	2	2	1	**5**
	4 years	1	1	1	**3**
	5 years	0	2	0	**2**
	8 years	1	0	0	**1**
TOTAL		**38**	**34**	**26**	**98**

* Tax fraud prosecutions are defined as those matters referred to the CDPP by the Australian Tax Office or sourced from the Australian Taxation Office. The 'head sentence' was calculated by rounding the maximum custodial term of imprisonment to the nearest whole year. As at 21.02.2012.